

COMMITTEE ON APPROPRIATIONS,
CHAIRWOMAN

SUBCOMMITTEE ON STATE, FOREIGN
OPERATIONS, AND RELATED PROGRAMS,
CHAIRWOMAN



Nita M. Lowey
Congress of the United States
17th District, New York

lowey.house.gov

WASHINGTON

2365 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20615
(202) 225-6606
FAX: (202) 225-0546

WESTCHESTER

222 MAMARONECK AVENUE
SUITE 312
WHITE PLAINS, NY 10605
(914) 428-1707
FAX: (914) 328-1505

ROCKLAND

67 NORTH MAIN STREET
SUITE 101
NEW CITY, NY 10950
(845) 639-3485
FAX: (845) 634-4079

May 07, 2020

The Honorable Jovita Carranza
Small Business Administration
Administrator
409 3rd Street SW
Washington, D.C. 20416

Dear Administrator Carranza:

I write to express deep concern regarding small business relief across the Economic Injury Disaster Loans (EIDL), EIDL Grants, and the Paycheck Protection Program (PPP), which have—under your implementation and in more ways than one—neglected the very recipients for which this relief was established. I am following up on the request for an oversight briefing call with the House Appropriations Committee.

My congressional district is home to one of the biggest coronavirus clusters in the state and country. Our small businesses and nonprofits are on the brink of furloughing staff and closing their doors for good; without these small businesses, local economies would further stall out, and without expedient support for our nonprofits, the vital services they provide to our communities would come to a halt at a time when we need them most.

New York workers, their families, and the small businesses and qualifying nonprofits that employ them rely upon your effective implementation of small business relief as enacted by Congress, which includes swift, clear and ongoing communication with Congress, borrowers, and lenders. It is imperative the Small Business Administration (SBA) convey its COVID-19 related needs to Congress in a timely and transparent manner, including resources needed to improve processing times for EIDL, EIDL Grants, and the PPP.

EIDL and EIDL Grants

Less than one month after New York's disaster declaration was granted on March 19th, the SBA stopped accepting EIDL applications on April 15th, later stating on its website that the additional

\$50 billion appropriated for the program under the *Paycheck Protection Program and Health Care Enhancement Act* will only go toward existing applications in the queue with no update as to when new applications may be submitted. Further, several constituents have written and called my office to share that while they had been approved for the EIDL Grants, more than three days had lapsed without any kind of update from the SBA on when these critical funds would be disbursed. Additional clarity regarding implementation of the EIDL and EIDL Grants is needed for the following:

1. The *Paycheck Protection Program and Health Care Enhancement Act* included \$50 billion in loan subsidy to fund approximately \$350 billion in SBA Economic Injury Disaster Loans. Accounting for differing loan sizes, how many applications in the queue does the SBA expect this relief to support?
2. If this amount is insufficient to support qualifying applications already in the queue, what additional amount in loan subsidy is needed from Congress to address existing applications?
3. What is the anticipated volume of new EIDL applications SBA expects upon resumption of accepting applications, and what is the anticipated loan volume?
4. Aside from an application number to verify completion that serves as an assurance the applicant is in the EIDL queue, what other updates does the SBA provide regarding the status of an application and where it stands in the queue?
5. What impedes the disbursement of EIDL Grants within three business days and what steps has the SBA taken to address this issue?

Paycheck Protection Program

Guidance to both borrowers and lenders for the PPP has failed to be clear, leaving borrowers unsure how their eligibility for the program or loan forgiveness will be impacted. The Paycheck Protection Program Loans Frequently Asked Questions¹ document, which has been updated multiple times, has caused more confusion rather than answer questions.

For example, Question 17 in the FAQ states that current PPP borrowers need not take further action if they were in compliance with SBA guidance as of April 2nd, but Question 31 in the same FAQ states that borrowers should return their PPP loan in full to stay in good faith if they have reasonable access to liquidity provided this option wouldn't be significantly detrimental to their business. While the FAQ specifically addresses how this guidance may apply to publicly traded companies, it fails to address non-public small businesses and qualifying nonprofits to assure that this does not apply to them in concrete terms. I have personally heard from genuinely small businesses and nonprofits operating on razor -thin margins who are fearful that vague guidance sets them up to fall out of compliance despite their best efforts, and subsequently, put

¹ U.S. Small Business Administration. Frequently Asked Questions for Lenders and Borrowers for the Paycheck Protection Program as of May 5, 2020. Retrieved from https://www.sba.gov/sites/default/files/2020-05/Paycheck-Protection-Program-Frequently-Asked-Questions_05%2003%2020.pdf

them in the position of owing hundreds of thousands of dollars for a loan they counted on being forgiven.

I've raised this and several other issues, such as confusion as to how employees are counted, on calls with multiple SBA-approved lenders of varying asset sizes. Their consistent feedback has been that SBA guidance comes too late, without clarity, and sometimes changes. As the federal agencies responsible for issuing guidance and regulations that will be used to determine compliance with loan forgiveness terms, I am especially concerned that borrowers have not been equipped with adequate information for them to fully understand how to stay on track for loan forgiveness. Additional clarity regarding implementation of the PPP is needed for the following:

1. What future resources will the SBA and the Treasury make available to PPP borrowers to support their compliance with the PPP terms of forgiveness throughout the life of the loan?
2. How will these resources be differentiated for the diversity of PPP borrowers?
3. When will these resources be made available?
4. What accountability will SBA-approved lenders have for supporting borrowers seeking loan forgiveness?

Congress provided an additional \$310 billion for PPP loans in the *Paycheck Protection Program and Health Care Enhancement Act*, which builds upon the \$349 billion provided in the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*. SBA and Treasury's implementation of the PPP loans should align with the clear message Congress sent by establishing a \$60 billion set aside within the \$310 billion for lenders with assets under \$50 billion. On April 29th shortly after 1:30 PM EST—five days after enactment of the *Paycheck Protection Program and Health Care Enhancement Act* when the \$60 billion set-aside had already been met and exceeded—Administrator Carranza tweeted an alert to eligible lenders with asset sizes under \$1 billion that they would have exclusive access to the SBA PPP portal from 4:00 PM – 11:59 PM EST that same day.² A comparable alert with less than 24 hours' notice from Secretary Mnuchin was posted to Treasury's website³. One tweet and one statement just mere hours before a one-time processing opportunity for small lenders with no guarantee of future opportunities are an unacceptable failure on your part to support the small businesses and nonprofits for which this set-aside was designed.

1. Are future dedicated processing windows for small lenders expected? If so, how many can lenders expect, and when is the next one?

² Jovita Carranza, S.B.A. (2020, April 29). To assist small community lenders and ensure their small business customers have access to the #PaycheckProtectionProgram, today from 4 PM EDT – 11:59 PM EDT, @SBAgov systems will only accept loans from lending institutions with asset sizes less than \$1 billion. [Tweet] <https://twitter.com/SBAJovita/status/1255550936577183744?s=20>

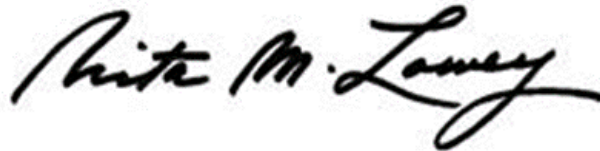
³ U.S. Department of Treasury. *Joint Statement by Secretary Steve T. Mnuchin and Administrator Jovita Carranza on Establishing Dedicated Hours for Small Lender Submissions of PPP Applications*. [Press Release]. (2020, April 29). Retrieved from <https://home.treasury.gov/news/press-releases/sm992>

2. Please provide assurance that any future dedicated processing windows for small lenders will be announced with at least 48 hours' notice.

During this unprecedented pandemic, we need to ensure better and fairer distribution of relief for small businesses and qualifying nonprofits seriously impacted by COVID-19. Our local small business owners and nonprofit leaders are working tirelessly to keep their doors open and their staff on payroll.

It is imperative that the House Appropriations Committee has a frank discussion in an oversight briefing call with SBA Administrator Carranza. I trust you share my sense of urgency, and I thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, reading "Nita M. Lowey". The signature is fluid and cursive, with the first name "Nita" being the most prominent.

Nita M. Lowey
Chairwoman
House Appropriations Committee

Cc: The Honorable Steven Mnuchin, Secretary of the U.S. Department of Treasury